

§ 93.22

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Monday through Friday, and 12 p.m. through 8:59 p.m. Central Time on Sunday. No person shall operate any scheduled arrival into O'Hare during such hours without first obtaining an Arrival Authorization in accordance with this subpart.

(d) Carriers that have Common Ownership shall be considered to be a single U.S. air carrier or foreign air carrier for purposes of this rule.

(e) The provisions of this subpart are applicable beginning October 29, 2006, and terminate at 9 p.m. on October 31, 2008.

§ 93.22 Definitions.

For the purposes of this subpart, the following definitions apply:

Arrival Authorization is the operational authority assigned by the FAA to a U.S. or foreign air carrier to conduct one scheduled arrival operation on a specific day of the week during a specific 30-minute period at O'Hare.

Carrier is a U.S. air carrier, Canadian air carrier or foreign air carrier with authority to conduct scheduled service at O'Hare under Parts 121, 129, 135 of the Chapter and the appropriate economic authority for scheduled service under Title 49 of the United States Code.

Common Ownership with respect to two or more carriers means having in common at least 50 percent beneficial ownership or control by the same entity or entities.

Incumbent is any U.S. or Canadian air carrier that is not a New Entrant or Limited Incumbent.

International Arrival Authorization is the operational authority assigned by the FAA to a Carrier to conduct one scheduled arrival operation at O'Hare from a foreign point or a continuation of a flight that began at a foreign point, except for arrivals at O'Hare from Canada by U.S. and Canadian air carriers.

Limited Incumbent is any U.S. or Canadian air carrier that holds or operates, on its own behalf, 8 or fewer Arrival Authorizations provided that it has not sold or otherwise transferred Arrival Authorizations, other than one-for-one transfers permitted in this subpart. Any Limited Incumbent that sells or otherwise transfers an Arrival

Authorization shall thereafter be treated as an Incumbent for purposes of this rule.

New Entrant is any U.S. or Canadian air carrier that does not hold or operate, and has never held or operated any Arrival Authorization at O'Hare, on its own behalf.

Preferred Lottery is a lottery conducted by the FAA to assign Arrival Authorizations, with initial preference for New Entrants and Limited Incumbents.

Scheduled Arrival is the arrival segment of any operation regularly conducted by a carrier between O'Hare and another point regularly served by that carrier.

Summer Scheduling Season is the period of time from the first Sunday in April until the last Sunday in October. Beginning March 11, 2007, the summer scheduling season is the period of time from the second Sunday in March until the first Sunday in November.

Winter Scheduling Season is the period of time from the last Sunday in October until the first Sunday in April. Beginning March 11, 2007, the winter scheduling season is the first Sunday in November until the second Sunday in March.

§ 93.23 Arrival Authorizations.

(a) Except as otherwise established by the FAA under paragraph (d) of this section and § 93.29 of this subpart, the number of Arrival Authorizations shall be limited to:

(1) 88 per hour between the hours of 7 a.m. and 7:59 p.m. Monday through Friday and 12 p.m. and 7:59 p.m. Sunday,

(i) Not to exceed 50 during each half-hour beginning at 7 a.m. and ending at 7:59 p.m.

(ii) Not to exceed 88 within any two consecutive 30-minute periods.

(2) 98 between 8 p.m. and 8:59 p.m. Monday through Friday, and Sunday, not to exceed 50 between 8 p.m. and 8:29 p.m. and 50 between 8:30 p.m. and 8:59 p.m.

(b) An Arrival Authorization is a temporary operating privilege subject to FAA control. Only Carriers may hold Arrival Authorizations. Arrival Authorizations may not be bought, sold, leased, or otherwise transferred to

another Carrier, except as provided in §§ 93.27 and 93.28 of this subpart.

(c) Beginning six months from the effective date of this rule and on each six-month anniversary thereafter, the FAA shall conduct a review of existing capacity at O'Hare, to determine whether to increase the number of Arrival Authorizations. The FAA will consider the following factors:

- (1) The number of delays;
- (2) The length of delays;
- (3) Weather conditions;
- (4) On-time arrivals and departures;
- (5) The number of actual arrival operations;
- (6) Runway utilization and capacity plans; and
- (7) Other factors relating to the efficient management of the national air space system.

(d) Notwithstanding paragraph (a), the Administrator may increase the number of Arrival Authorizations based on the review conducted in paragraph (c) of this section.

§ 93.24 [Reserved]

§ 93.25 Initial assignment of Arrival Authorizations to U.S. and Canadian air carriers for domestic and U.S./Canada transborder service.

(a) The FAA shall assign to each U.S. and Canadian air carrier, conducting scheduled service at O'Hare, as of the effective date of this rule, Arrival Authorizations for each scheduled arrival that it published for either domestic or U.S./Canada transborder service for any day during the 7-day period of November 1 through 7, 2004, as evidenced by the FAA's records, not to exceed the peak-day limits for each carrier established under the August 18, 2004, "Order Limiting Scheduled Operations at O'Hare International Airport." A carrier's total assignment under this paragraph shall be reduced accordingly by (i) any international Arrival Authorizations assigned under § 93.29 (a), and (ii) if the carrier transferred or traded for consideration any arrival authorizations to another carrier under the October 2006 order amending the August 18, 2004 order and the transferee carrier meets the conditions of paragraph (b) of this section, the number of such traded or transferred authorizations.

(b) The FAA shall assign an Arrival Authorization to each U.S. and Canadian air carrier that did not publish a scheduled domestic or U.S./Canada transborder arrival during the period of time referenced in paragraph (a) of this section for arrivals for which the carrier:

(1) Was entitled to under the August 18, 2004, "Order Limiting Scheduled Operations at O'Hare International Airport," as amended, and is conducting scheduled service at O'Hare as of the effective date of this rule; or

(2) Has initiated scheduled service or received FAA approval of a trade or transfer under the August 18, 2004, "Order Limiting Scheduled Operations at O'Hare International Airport," as amended, as long as operations conducted under the Arrival Authorization begin no later than January 27, 2007.

(c) Arrival Authorizations will be assigned to the U.S. or Canadian air carrier that actually operated the flight regardless of any codeshare or marketing arrangement unless such carrier did not market the flight under its own code and the inventory of the flight was under the control of another Carrier. If the inventory was under the control of another Carrier, the FAA shall assign the Arrival Authorization to that Carrier. Carriers may subsequently transfer Arrival Authorizations for use by other Carriers under their marketing control in accordance with § 93.2(m).

(d) Any Arrival Authorization not assigned under paragraphs (a) or (b) of this section will be assigned to carriers conducting scheduled international service under § 93.29. Any remaining Arrival Authorizations will be assigned by preferred lottery under § 93.30.

(e) The FAA Vice President, System Operations Services, is the final decision-maker for determinations under this section.

[Doc. No. FAA-2005-20704, 71 FR 51400, Aug. 29, 2006, as amended by Amdt. 93-86, 71 FR 60426, Oct. 13, 2006]

§ 93.26 Reversion and withdrawal of Arrival Authorizations.

(a) A U.S. or Canadian air carrier's Arrival Authorizations assigned under §§ 93.25 or 93.27 revert automatically to the FAA 30 days after the Carrier has